

**Introduced by Senator Rubio**

February 16, 2012

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An act to amend Sections 4190 and 4195 of, and to amend the heading of Article 14 (commencing with Section 4190) of Chapter 9 of Division 2 of, the Business and Professions Code, relating to pharmacy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1095, as introduced, Rubio. Pharmacy: clinics.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy and makes a knowing violation of its provisions a crime. Existing law authorizes a surgical clinic, as defined, that is licensed by the board to purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the surgical clinic. Existing law prohibits a surgical clinic from operating without a license issued by the board. Existing law requires these surgical clinics to comply with various regulatory requirements and to maintain specified records. Existing law authorizes the board to inspect a surgical clinic at any time in order to determine whether a surgical clinic is operating in compliance with certain requirements.

This bill would expand these provisions to additionally authorize an outpatient setting or an ambulatory surgical center, as specified, to purchase drugs at wholesale for administration or dispensing, subject to the requirements applicable to surgical clinics. The bill would delete the requirement that a surgical clinic be licensed by the board but would require the clinics described above to be licensed in order to receive the benefits of these provisions. The bill would specify that the board is authorized to inspect only a clinic that is licensed by the board.

Because a knowing violation of these requirements by outpatient settings and ambulatory surgical centers would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 California Outpatient Pharmacy Patient Safety and Improvement  
3 Act.

4 SEC. 2. The heading of Article 14 (commencing with Section  
5 4190) of Chapter 9 of Division 2 of the Business and Professions  
6 Code is amended to read:

7  
8 Article 14. ~~Surgical~~ Clinics  
9

10 SEC. 3. Section 4190 of the Business and Professions Code is  
11 amended to read:

12 4190. (a) *For the purposes of this article, “clinic” means a*  
13 *surgical clinic licensed pursuant to paragraph (1) of subdivision*  
14 *(b) of Section 1204 of the Health and Safety Code, an outpatient*  
15 *setting accredited by an accreditation agency, as defined in Section*  
16 *1248 of the Health and Safety Code, or an ambulatory surgical*  
17 *center certified to participate in the Medicare Program under Title*  
18 *XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et*  
19 *seq.).*

20 (a)  
21 (b) Notwithstanding any provision of this chapter, a ~~surgical~~  
22 ~~clinic, as defined in paragraph (1) of subdivision (b) of Section~~  
23 ~~1204 of the Health and Safety Code~~ clinic may purchase drugs at  
24 wholesale for administration or dispensing, under the direction of  
25 a physician *and surgeon*, to patients registered for care at the clinic,  
26 as provided in subdivision ~~(b)~~ (c). The clinic shall keep records of  
27 the kind and amounts of drugs purchased, administered, and

1 dispensed, and the records shall be available and maintained for  
2 a minimum of three years for inspection by all properly authorized  
3 personnel.

4 ~~(b)~~

5 (c) The drug distribution service of a ~~surgical~~ clinic shall be  
6 limited to the use of drugs for administration to the patients of the  
7 ~~surgical~~ clinic and to the dispensing of drugs for the control of  
8 pain and nausea for patients of the clinic. Drugs shall not be  
9 dispensed in an amount greater than that required to meet the  
10 patient's needs for 72 hours. Drugs for administration shall be  
11 those drugs directly applied, whether by injection, inhalation,  
12 ingestion, or any other means, to the body of a patient for his or  
13 her immediate needs.

14 ~~(e)~~

15 (d) No ~~surgical~~ clinic shall ~~operate without a license issued by~~  
16 ~~the board nor shall it~~ be entitled to the benefits of this section until  
17 it has obtained a license from the board. A separate license shall  
18 be required for each clinic location. A clinic *licensed by the board*  
19 shall notify the board of any change in the clinic's address on a  
20 form furnished by the board.

21 ~~(d) Any~~

22 (e) *If a clinic is licensed by the board, any proposed change in*  
23 *ownership or beneficial interest in the licensee shall be reported*  
24 *to the board, on a form to be furnished by the board, at least 30*  
25 *days prior to the execution of any agreement to purchase, sell,*  
26 *exchange, gift or otherwise transfer any ownership or beneficial*  
27 *interest or prior to any transfer of ownership or beneficial interest,*  
28 *whichever occurs earlier.*

29 (f) *Nothing in this section shall limit the ability of a physician*  
30 *and surgeon or a group medical practice to prescribe, dispense,*  
31 *administer, or furnish drugs at a clinic as provided in Sections*  
32 *2241.5, 2242, and 4170.*

33 SEC. 4. Section 4195 of the Business and Professions Code is  
34 amended to read:

35 4195. The board shall have the authority to inspect a clinic *that*  
36 *is licensed pursuant to this article* at any time in order to determine  
37 whether ~~a the~~ clinic is, or is not, operating in compliance with this  
38 article and all other provisions of the law.

39 SEC. 5. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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